GOVERNMENT OF MYSORE

Food, Civil Supplies and Labour Department

Labour Dispute :—Industrial Dispute between the Workmen and the Management of M/s Komala Sweets Stall, Mangalore.

Award of the Labour Court, Mangalore—Published.

Read the following papers :

(1) Letter No. A/(ID) 22/72-73, dated 30th October 1972, from Sri B. Hanumanthaiah, Presiding Officer, Labour Court, Mangalore.

BEFORE THE LABOUR COURT AT MANGALORE

Dated 30th October 1972.

Reference (ID) (LCM) No. 22 of 1972.

Present :

B. Hanumanthaiah, B.Sc. LL.B., *Presiding Officer.*

Between :

The Workmen, represented by the General Secretary, Karnataka General Workers Union, Mangalore. ... *I Party*

and

The Management of M/s Komala Sweets Stall, Mangalore, .. *II Party.*

AWARD.

The State Government of Mysore being of the opinion that an industrial dispute exists between the Workmen and the management of M/s Komala Sweets Stall, Mangalore referred the dispute under Section 10 (1)(c) of the Industrial Disputes Act, 1947, for adjudication to this Court, by their Order No.

FCL 382 LLD 72, dated 2nd June 1972. The points of dispute as specified in the order of reference are the following :

"1. Whether the Management of M/s. Komala Sweets Stall, Mangalore-1, are justified in refusing work to Sri P. Krishna, with effect from 20th August 1971 ?

2. If not, to what relief the said workman is entitled ?"

2. The dispute is raised by the Karnataka General Workers Union, Mangalore and the first party workmen are represented by the General Secretary of the said Union. And on behalf of the Union it is stated that the Management of M/s. Komala Sweets Stall, Mangalore was not justified in refusing work to Sri P. Krishna, with effect from 20th August 1971. The notice was served on the Secretary of the Union requiring him to appear on 20th June 1972. He did not appear. The notice was issued to the workman also. The notice was served on the worker on 18th July 1972 and the hearing had been fixed to 21st July 1972. Sri Saduddin filed authorisation on behalf of the General Secretary, Karnataka General Workers Union, Mangalore on 21st July 1972. The learned counsel took time for filing the claim-statement and the case was posted to 1st August 1972 and then to 7th August 1972. On 23rd August 1972 Sri Saduddin filed a memo stating that he has no instructions. He was permitted to withdraw his authorisation and the first party was placed *ex-parte*. The second party has filed its counter-statement on 24th August 1972. Again, on 19th September 1972 Sri Saduddin stated that he would contact and state if the first party has any say in the matter. The case was posted to 12th October 1972. On 12th October 1972 it was represented that intimation had been given to the union but no one was present on behalf of the first party. On 26th October 1972 the first party worker was not present. The General Secretary of the Union was also not present. Sri Saduddin represented that he had informed the General Secretary of the date of hearing. Thus the first party has not taken any steps either to file the claim-statement or to adduce necessary evidence to adjudicate upon the dispute.

3. The second party management has filed the counter-statement stating that the workman was appointed on daily wages on 30th April 1971 and that on 19th August 1971 a complaint was received from the packing department that one [illegible]

drawings had been drawn on the table used by girls of the packing department. Further it is stated that the workman Sri P. Krishna was asked to give an apology letter but he refused to do so and left the factory. Thereafter he never reported for work. It is also stated that the second party has not terminated the services of the first party workman. The dispute is whether the management is justified in refusing work to Sri P. Krishna with effect from 20th August 1971. On behalf of the management the Managing partner Sri Vithoba Nagvekar has been examined as MW 1 He has stated that the workman P. Krishna was working as a packer on daily wages and a complaint was received against him from the packing department and an oral enquiry was held against him. He has stated that from the enquiry it was found that the workman had drawn up ugly drawings and therefore he instructed him to give an apology in writing He has further stated that the workmen had remained absent and he has abstained from his work and no order has been made bythe management removing him from service either in writing or orally. The allegation that he has been refused work is denied.

4. The facts which are admitted by the management are that the workman Sri P. Krishna was a worker in their employment and he is not attending to work now. MW1 has sworn that the workman had drawn up some ugly drawings and therefore he was instructed to give an apology in writing and he refused to give any apology but has remained absent. No order either, in writing or orally has been issued directing him not to attend to his work. Therefore I find that it is not proved that the management had refused work to Sri P. Krishna with effect 20th August 1971. In the counter-statement also it is stated by the management that the workman is free to report for duty at any time but they have denied the claim for back wages. It is also now open to the workman to report to duty and claim for an enquiry if he finds that an enquiry should be held in writing. But there is nothing to show that the management had refused work to the workman. Therefore I find that the reference has to be answered in the negative. Since it is not proved that the management has refused employment to the workman, I find that he is not entitled to any reliefs in this case since the first party has failed to prove that the second party refused employment to him with effect from 20th August 1971. Further I find that the reference has to be answered in the negative and accordingly I hold that it is not proved that the management has refused work to the

workman with effect from 20th August 1971. Further I find that the first party is not entitled to any reliefs. The parties shall bear their own costs of this reference.

Mangalore,
Dated 28th October 1972.

B. HANUMANTHAIAH,
Presiding Officer,
Labour Court, Mangalore.

ORDER

Bangalore, dated the 23rd November 1972.

S. O. 384.—WHEREAS by State Government Order No. FCL 382 LLD 72, dated 2nd June 1972 the Industrial Dispute between the Workmen and the Management of Messrs. Komala Sweets Stall, Mangalore was referred to the Labour Court, Mangalore for adjudication.

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette.*

[No. FCL 224 LLA 72.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI,
Under Secretary to Government,
Food, Civil Supplies and Labour Department.